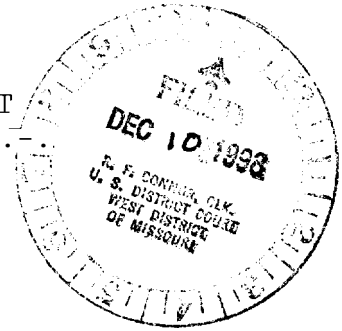


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION



B. JEAN WEBB,)
Plaintiff,)
)
v.) Case No 98-3306-CV-S-RGC
)
CITY OF REPUBLIC, MISSOURI,)
Defendant.)

SECOND AMENDED COMPLAINT

Count I

1. This suit seeks a judicial determination that defendant has adopted and maintained a city seal that violates the First and Fourteenth Amendments to the United States Constitution, specifically the Establishment Clause of the First Amendment.

2. This action arises under the Constitution of the United States and the provisions of 42 U.S.C. § 1983. The jurisdiction of this court is invoked pursuant to 28 U.S.C. §§ 1331 and 1343(a), and pursuant to 42 U.S.C. § 1983. Jurisdiction is also conferred and authorized by 28 U.S.C. §§ 2201 and 2202.

3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b).

4. Plaintiff B. Jean Webb is a resident and taxpayer of the City of Republic, Missouri.

5. Defendant City of Republic, Missouri (hereafter "Republic," "City" or "defendant") is a municipal corporation and a political subdivision of the State of Missouri.

ORIGINAL

6. In or about 1990, defendant adopted a City seal, which has an elliptical shape and is divided into four quadrants, each containing a picture. Clockwise from the upper left, the quadrants contain: (1) an outline of the State of Missouri with a star in the southwest corner noting the location of Republic; (2) an outstretched hand; (3) a silhouette of a family; and (4) a symbol of a fish.

7. The fish symbol used in defendant's seal is an unambiguous symbol of Christianity.

8. Since defendant's adoption of the seal, the City has prominently displayed the seal on city property and documents. There are or have been depictions of the seal on City buildings, facilities, flags, signs, vehicles, stationery, letterhead and envelopes, and forms. The City's use of the seal is pervasive and frequent.

9. Plaintiff has regularly seen the City's seal on signs, documents, and other places. Plaintiff and others who view or are exposed to the City's seal reasonably understand the seal's inclusion of a fish symbol as an endorsement of religion by the City.

10. The City's adoption and use of a seal which incorporates religious symbols does, in fact, constitute an endorsement and support of religion by the City in violation of the First and Fourteenth Amendments to the United States Constitution.

11. The City's actions in adopting and maintaining the City seal were and continue to be taken under color of state law as defined in 42 U.S.C. § 1983.

12. The actions of the City in adopting and using the seal constitute an ordinance, regulation, custom, usage, or policy for purposes of 42 U.S.C. § 1983, which renders the City liable for actual damages for violation of plaintiff's civil rights.

13. As a result of the City's adoption and maintenance of a seal containing a Christian religious symbol, plaintiff has suffered distinct and palpable injuries, including but not limited to the following: (1) Plaintiff moved to Republic from another town hoping to find a community more tolerant of her non-Christian religious beliefs. Upon seeing the City's seal containing the fish symbol, however, plaintiff feared that her non-Christian religious practices and beliefs would be unwelcome and would not be tolerated and that she and her children would be harassed and ostracized if plaintiff's religious beliefs became known. As a result of these fears created by the City seal's depiction of a Christian religious symbol, plaintiff altered her religious practices in an attempt to avoid such consequences. Among other things, plaintiff concealed her religious beliefs from others and told her children not to discuss their religion and to deny their true religious beliefs if asked about the subject. (2) In her capacity as a writer for the local newspaper (The Republic Monitor), plaintiff wrote an editorial opposing the

City seal and, as a result, received hate mail and harassing, belligerent telephone calls and personal contacts from citizens with different views on the subject. (3) In addition, plaintiff and her children have been harassed as a result of plaintiff's opposition to the City's seal. Such harassment has caused plaintiff to suffer emotional distress, upset, and worry. (4) The dispute over the City seal has stirred up an atmosphere of religious intolerance among some people in the community, and that intolerance has made plaintiff even more fearful of practicing her religion in accordance with her rights under the Free Exercise Clause of the First Amendment.

14. Plaintiff pays sales and other taxes or fees to the City and is directly and adversely affected financially by the City's use of public funds to maintain and promote the City's various representations of the seal. This use of public funds to support such an endorsement of religion constitutes a serious insult to plaintiff's religious and spiritual sensibilities and directly injures them.

15. Plaintiff objects to the City's endorsement of religion and use of public funds to support such an endorsement.

16. Plaintiff has no adequate remedy at law, and unless this court grants the injunctive and declaratory relief herein requested, plaintiff will be unable to exercise her rights and will thus be irreparably damaged.

Count II

17. Plaintiff repeats and realleges the allegations made in Paragraphs 1 through 16 of Count I as if fully set forth in paragraph 17 of Count II.

18. By adopting and maintaining the City seal, defendant is violating Article I, §§ 6 and 7 of the Constitution of Missouri, 1945.

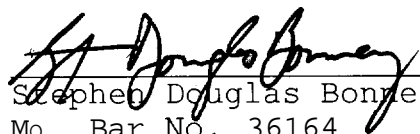
19. The court has jurisdiction over this state law claim under the doctrine of pendent or supplemental jurisdiction. 28 U.S.C. § 1367(a).

WHEREFORE, on each Count of this Complaint, plaintiff respectfully requests that this court grant the following relief:

A. A declaratory judgment finding that the City's adoption and use of its seal is unconstitutional and violates the rights of plaintiff under the First and Fourteenth Amendments to the United States Constitution and under Art. I, §§ 6 and 7 of the Missouri Constitution;

B. Preliminary and permanent injunctions preventing and restraining defendant, and its officers, employees, agents, and others in concert with them, from further use, adoption, endorsement, or display of the current seal in any way, form, fashion, or method, and from use, adoption, endorsement, or display of any other seal which contains religious symbols; and

C. Such other orders and further relief, including an award of costs and attorney's fees, as this court deems just and equitable.


Stephen Douglas Bonney

Mo. Bar No. 36164

215 West 18th Street

Kansas City, MO 64108

Tel. (816) 221-2868

Fax: (816) 421-0255

COOPERATING ATTORNEY, AMERICAN
CIVIL LIBERTIES UNION FOUNDATION
OF WESTERN MISSOURI
ATTORNEY FOR PLAINTIFF

Certificate of Service

I certify that, on December 2, 1998, a copy of the foregoing document was mailed, postage prepaid to: David R. Huggins, National Legal Foundation, PO Box 341283, Memphis, TN 38184-1283, and James M. Kelly, 316 West Hwy. 60, PO Box 327, Republic, MO 65738, Attorneys for Defendant.